

**Enrolled Minutes of the Sixth Regular or Special Meeting
For the Twenty-Eighth Highland Town Council
Regular Meeting
Monday, March 14, 2016**

Study Session. The Twenty-Seventh Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, March 14, 2016 at 6:45 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Mark Herak, Dan Vassar, and Konnie Kuiper were present. Councilor Steve Wagner was absent owing to a work commitment. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council reviewed and discussed the agenda of the imminent regular meeting.
2. The Redevelopment Director and the Town Council discussed the particular language in a draft letter to be mailed to property owners in the area of proposed property acquisition. The discussion included a concern about the letter referencing the purposes of the acquisition as being for developing an Arts and Cultural District.
3. The Town Council, the Redevelopment Director and the Building Commissioner/Chief Inspector discussed the current municipal code and its import upon regulating food trucks. The discussion noted that regulations for parks was vested with the park and recreation board. It was noted that the current Peddler and Solicitor Code probably should be reviewed and updated. The discussion included ascertaining what regulatory or policy objective the Town Council desired. Some on the Town Council evinced a concern to protect the existing businesses from undue competition that would have an unwelcome economic impact. There was no further discussion.

The study session ended at 7:03 O'clock p.m.

Regular meeting. The Twenty Seventh Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, March 14, 2016 at 7:05 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Opening Ceremony: There was a procession and United States Flag installation and conducted by the members of Highland Girl Scout Troops 10280, 10104 and Troop 15129 in *Honor of Girl Scout Week*.

This included Troop 10280 Leader Laurel Roach; Troop 10280 Girl Scouts Megan Wilson, and Stephanie Slagle. It further included Rachel Cordero, of Girl Scout Troop 15129.

In addition, it still further included Troop 10104 Leaders Karissa Dewey and Kim Brummet; Troop 10104 Girl Scouts Brianna Dewey; Riley Mengel; Brittany Brummet; and Megan Szymanski.

The Town Council President, Bernie Zemen, presided. The Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings. The meeting was opened with the Girl Scouts reciting the Pledge of Allegiance to the Flag of the United States of America and with the Town Council President offering a prayer.

Roll Call: Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, and Konnie Kuiper. Councilor Steve Wagner was absent owing to a work commitment. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Rhett L. Tauber, Esq., Town Attorney; Bob Johnsen, Assistant Public Works Director; Peter Hojnicky, Metropolitan Police Chief; William R. Timmer, Jr., CFOD, Fire Chief; Alex M. Brown, CPRP, Superintendent of Parks and Recreation; Cecile Petro, Redevelopment Director; and Kenneth J. Mika, Building Commissioner, were present.

Also present: Randy Bowman, Assistant Inspector for Electrical Code; Susan Murovic, Advisory Board of Zoning Appeals and Ed Dabrowski IT Director (Contract) were also present.

Additionally present: Mitch Ripley, CEO of HR Unlimited Management and Human Resource Consulting was also present.

Minutes of the Previous Meetings: The minutes of the regular meeting of 22 February 2016 were approved by general consent.

Staff Reports: The following staff reports were received and filed.

• **Building & Inspection Report for February 2016**

Permit Type	Number	Residential	Commercial	Est. Cost	Fees
Commercial Buildings:		0	0	\$0.00	\$0.00
Commercial Additions or Remodeling:	4	0	7	\$51,063.00	\$965.00
Signs:	8	0	8	\$33,643.00	\$2,366.00
Single Family:	0	0	0	\$0.00	\$0.00
Duplex/Condo:	0	0	0	\$0.00	\$0.00
Residential Additions:	0	0	0	\$0.00	\$0.00
Residential Remodeling:	30	30	0	\$400,101.00	\$3,843.50
Garages:	0	0	0	\$0.00	\$0.00
Sheds:	0	0	0	\$0.00	\$0.00
Decks & Porches:	0	0	0	\$0.00	\$0.00
Fences:	2	2	0	\$20,728.00	\$355.00
Swimming Pools:	0	0	0	\$0.00	\$0.00
DrainTile/ Waterproofing:	9	9	0	\$106,092.00	\$1,757.00
Miscellaneous	3	0	3		\$331.50
TOTAL:	56	41	15	\$611,627.00	\$11,618.00
Electrical Permits	19	10	9		\$1,459.00
Mechanical Permits	16	10	6		\$1,205.00
Plumbing Permits	4	3	1		\$520.75
Water Meters	2	2	0		\$460.00
Water Taps	0	0	0		\$0.00
Sewer/Storm Taps	0	0	0		\$0.00
TOTAL Plumbing:	6	5	1		\$980.75

February Code Enforcement:

Investigations: 80

Citations: 23

February Inspections:

Building: 28 Electrical: 22 Plumbing: 12 HVAC: 10
Electrical Exams: 3

• **Fire Department Report for February 2016**

	Month	1st half of year
General Alarms	9	23
Still Alarms	7	14
Paid still alarms	26	51
Total:	42	

• **Fire Department Report for January 2016**

	Month	1st half of year
General Alarms	14	14
Still Alarms	7	7
Paid still alarms	25	25
Total:	46	

• **Workplace Safety Report for February 2016**

There were no incidents to report for February. The following incident summary was filed:

Department	Injuries this Month	Year to Date 2016	Total in 2015	Restricted Days 2016	Lost Workdays This Year (2016)	Restricted Days Last Year (2015)	Lost Workdays Last Year (2015)
Parks	0	0	1	0	0	0	0
Fire	0	0	0	0	0	0	0
Police	0	0	1	0	0	0	0
Street	0	0	2	0	0	0	0
Water & Sewer	0	0	4	0	0	5	0
Maint.	0	0	0	0	0	0	0
Other	0	0	1	0	0	0	0
TOTALS	0	0	9	0	0	5	0

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

Appointments:

• **Statutory Boards and Commissions**

Executive Appointments (May be made in meeting or at another time)

(Appointments have been placed on agenda in case there is readiness to act)

1. **Economic Development Commission. (2) Appointments.** (1) Appointment to be made by the municipal executive, but requiring nomination from the Lake County Council. Term ends just before February 1st.

(A) Appointment to be made by the municipal executive, but requiring nomination from the County Council. *Currently serving is Dave Beanblossom. The County*

Council re-nominated Mr. Beanblossom at its meeting of February 9, 2016. (The letter was dated March 3, 2016)

The Town Council President as municipal executive acknowledged the receipt of the nomination letter from the Lake County Council, and affirmed his earlier appointment of Dave Beanblossom.

2. **Appointment to the Redevelopment Commission.** The Town Council President wishes to appoint a successor to him as he wishes to vacate the position.

The Town Council President announced his resignation from the Redevelopment Commission. The Town Council President then announced his appointment of **Dominic Noce**, 8931 Liable Road, Highland, Indiana.

Legislative Appointments

1. **Voluntary Appointment to the Board of Directors of the Lake County Land Bank.** (See letter enclosed)

Councilor Vassar moved to appoint Cecile Petro as Redevelopment Director to the Board of Directors for this initiative. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The Redevelopment Director was appointed.

Unfinished Business and General Orders:

1. Introduced **Appropriation Enactment No. 2016-10:** An Enactment Appropriating Additional Moneys in Excess of the 2016 Budget for the *Gaming Revenue Sharing Fund* in the amount of \$124,900 and the *Park Non-Reverting Capital Fund* in the Amount of \$150,000, all pursuant to I.C. 6-1.1-18, and I.C. 36-5-3-5. *Public hearing on the proposed additional appropriations was conducted at the Town Council meeting of 22 February 2016. Councilor Herak introduced the enactment. There was no further action.*

Councilor Herak moved to pass and adopt Enactment no. 2016-10. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The Enactment was adopted.

Town of Highland Appropriation Enactment Enactment No. 2016-10

AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET for the GAMING REVENUE SHARING FUND AND THE PARK NON-REVERTING CAPITAL FUND, ALL PURSUANT TO I.C. 6-1.1-18, and I.C. 36-5-3-5.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Gaming Revenue Sharing Fund** and the **Park Non-Reverting Capital Fund**;

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Gaming Revenue Sharing Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

GAMING REVENUE SHARING FUND

Acct. No. 4XX.XX 45* & 5* Intersection Improvement:	\$ 124,900.00
Total Series:	\$ 124,900.00

Fund Total: \$ 124,900.00

Section 2. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Park Non-Reverting Capital Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

PARK NON-REVERTING CAPITAL FUND	
Acct. No. 4XX.XX Bike Trail Signage IGA Project:	\$150,000.00
Total Series:	\$150,000.00

Fund Total: \$150,000.00

Section 3. That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

Section 4. That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 22nd Day of February 2016. Consideration on the same day or at same meeting of introduction was not considered, pursuant to IC 36-5-2-9.8.

DULY ORDAINED AND ADOPTED this 14th Day of March 2016, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

2. Introduced **Appropriation Enactment No. 2016-11:** An Enactment Appropriating Additional Moneys in Excess of the 2016 Budget for the *Municipal Cumulative Capital Development (MCCD) Fund* in the amount of \$93,484, all pursuant to I.C. 6-1.1-18, and I.C. 36-5-3-5. *Public hearing on the proposed additional appropriations was conducted at the Town Council meeting of 22 February 2016. Councilor Herak introduced the enactment. There was no further action.*

Councilor Herak moved to pass and adopt Enactment no. 2016-11. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The Enactment was adopted.

**Town of Highland
APPROPRIATION ENACTMENT
Enactment No. 2016-11**

An Enactment Appropriating Additional Moneys in Excess of the Annual Budget for the Municipal Cumulative Capital Development Fund, all pursuant to I.C. 6-1.1-18, I.C. 36-5-3-5, et seq.

WHEREAS, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Municipal Cumulative Capital Development Fund**;

WHEREAS, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levy set under I.C. 6-1.1-17, all pursuant to I.C. 36-5-3-5;

NOW, THEREFORE BE IT ENACTED by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Municipal Cumulative Capital Development Fund** and for the purposes herein specified, subject to the laws governing the same:

MUNICIPAL CUMULATIVE CAPITAL DEVELOPMENT FUND

Increase	
Acct. 055-0000-3000X Fire Truck Capital Lease:	\$ 84,025.00
Acct. 055-0000-39028 Street Light Replacement:	<u>\$ 5,459.00</u>
Total Series:	\$ 89,484.00
Increase	
Acct. 055-0000-41003 PW Rehabilitation:	<u>\$ 4,000.00</u>
Total Series:	\$ 4,000.00
Fund Total:	\$ 93,484.00

Section 2. That the Clerk-Treasurer is hereby authorized and instructed to inform the Indiana Department of Local Government Finance of this action and that these moneys be made available for expenditure **subject to an order** of the Commissioner, pursuant to IC 6-1.1-18.

Section 3. That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 22nd Day of February 2016. Consideration on the same day or at same meeting of introduction was not considered, pursuant to IC 36-5-2-9.8.

DULY ORDAINED, ENACTED AND ADOPTED this 14th Day of March 2016, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

ATTEST:

**Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)**

3. **Letter and Concept Approval.** Redevelopment Director seeks both concept approval for the subject matter and the issuance of the draft missive for use in property acquisition in the proposed arts district.

Councilor Vassar moved to approve the letter and concept provided that the sentence on line 2 referring to the Arts and Cultural District be omitted. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The concept of land acquisition and the letter as amended were approved.

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Redevelopment Commission

TOWN OF HIGHLAND

3333 Ridge Road ☐ Highland, Indiana 46322 ☐ 219-972-7598 ☐ fax 219-972-5097

March____, 2016

Dear _____,

The Highland Town Council has authorized and directed the Redevelopment Commission to contact each owner of property within the Garfield and Condit Streets area (west of Kennedy Avenue) and to inquire whether each owner is interested in selling his/her property to the Town of Highland.

As you may know, the Redevelopment Commission is currently developing plans to rehabilitate that area. ~~Current planning establishes the area as an Arts and Cultural District.~~ The Town received a grant from the Northwestern Indiana Regional Planning Commission (NIRPC) to begin the planning process, provide options, and contribute their expertise for what NIRPC calls "livable centers" within downtowns. That initial plan is expected soon and should provide a starting point to identify how that area should function and what features it should have to be successful.

Before the town takes the next step, the Commission is requesting information from owners on their interest in selling. Currently, the Commission is negotiating with owners of three parcels within that area. In addition, it has purchased two properties to the north of the Town Theatre in 2015. The Council has encouraged the Commission to continue to meet and talk with owners within that area. You are being contacted now to begin the same process. The Commission would like to meet with you to discuss the town's plan and to begin negotiations. Please contact Redevelopment Director, Cecile Petro, at 219-972-7598 to set up a meeting at your convenience within the next two weeks.

Thank you and on behalf of the Town Council and Redevelopment Commission, we look forward to discussing this matter with you.

Sincerely,

Carol Green-Fraley,
Redevelopment Commission Attorney

Bernie Zemen,
Town Council President

Greg Kuzmar,
Redevelopment Commission President

Cecile L. Petro
Redevelopment Director

4. **Works Board Order No. 2016-08:** An Order of the Works Board Accepting a Proposal from Tim's Landscape Services, Inc., for Landscape Maintenance Services in Downtown Highland and Three (3) Welcome to Highland sign Planters in the amount of Thirty-five Thousand Two Hundred Twenty-Five Dollars and no Cents (\$35,225).

Councilor Kuiper moved to pass and adopt Works Board Order No. 2016-08. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The order was adopted.

An Order of the Works Board Accepting a Proposal from Tim's Landscape Services, Inc., for Landscape Maintenance Services in Downtown Highland and Three (3) Welcome to Highland sign Planters in the amount of Thirty-two Thousand Seven Hundred Five Dollars and no Cents (\$35,225)

Whereas, The Department (Agency) of Public Works has determined to outsource the landscape maintenance functions to qualified landscape service contractors in downtown Highland and the three (3) Welcome to Highland sign planters in 2016; and

Whereas, In 2015, the Public Works Director had prepared specifications and schedule of services to be performed throughout the course of year and had solicited bids from five (5) landscape services contractors, pursuant to the specifications and schedule of services; and

Whereas, In 2015, the Town of Highland had awarded a contract for downtown landscape maintenance to Tim's Landscape Services, Inc. in the amount of Thirty-two Thousand Seven Hundred Five Dollars and no Cents (\$32,705.00) to be the lowest responsive and responsible bid; and

Whereas, On February 1, 2016, Tim's Landscape Services, Inc. was requested to submit a proposal for downtown landscape maintenance services, revised to include areas outside the 2015 scope of services, for the 2016 season, pursuant to IC 5-22-6-1, Section 3.05.090 of the Purchasing Code, and IC 36-1-12-4.9; and

Whereas, On March 10, 2016, Tim's Landscape Services, Inc., offered and presented a proposal, attached hereto and made a part of this Order, to provide landscape maintenance services for the downtown Highland and three (3) welcome to Highland sign planters in consideration for fees to be charged and billed monthly based upon a lump sum of the value of the services associated with the work completed, in the total amount of Thirty-five Thousand Two Hundred Twenty-five Dollars (\$35,225.00); and

Whereas, There are sufficient and available appropriations balances on hand to support the payments under the agreement, pursuant to IC 5-22-17-3(e) and Section 3.05.040(E); and

Whereas, The Town of Highland, through its Town Council acting as the Works Board of the municipality pursuant to IC 36-1-2-24(4), now desires to accept the recommendation of the Public Works Director, as purchasing agent for the Public Works Department (agency), pursuant to Section 3.05.050(D)(1) to accept the proposal and award a contract to Tim's Landscape Services, Inc. for the Downtown Highland and three (3) Welcome to Highland sign planters landscape maintenance services,

Now, Therefore, Be It Ordered, by the Town Council of the Highland, Indiana acting as the Works Board as follows:

Section 1. That the proposal of Tim's Landscape Services, Inc. Landscape Maintenance Services in Downtown Highland and three (3) Welcome to Highland sign Planters in the amount of Thirty-five Thousand Two Hundred Twenty-five Dollars (\$35,225.00) is hereby accepted as the lowest responsive and responsible quote;

Section 2. That the Public Works Director is hereby authorized to execute the agreement and all documents necessary to implement the purposes of the agreement.

Be it so Ordered.

DULY, PASSED, ADOPTED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 14th day of March 2016 having passed by a vote of 4 in favor and 0 opposed.

**WORKS BOARD of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

5. **Proposed Ordinance No. 1612: An Ordinance To Amend Chapter 15.55 of the Code Of Ordinances For The Town Of Highland, State Of Indiana, Particularly Regulating Flood Hazard Areas, All Pursuant To IC 36-1-5 et Seq.**

Councilor Herak introduced and moved consideration at the same meeting of introduction of Ordinance No. 1612. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no

negatives. The motion passed. The ordinance could be considered at the same meeting of introduction.

Councilor Herak moved the passage and adoption at the same meeting of introduction of Ordinance No. 1612. Councilor Vassar seconded. Upon a roll call vote, a 2/3rds vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted at the same meeting of introduction.

**ORDINANCE No. 1612
of the
TOWN of HIGHLAND, INDIANA**

AN ORDINANCE To AMEND CHAPTER 15.55 OF THE CODE OF ORDINANCES For The Town Of Highland, State Of Indiana, PARTICULARLY REGULATING FLOOD HAZARD AREAS, ALL PURSUANT TO IC 36-1-5 ET SEQ.

WHEREAS, Title 36, Article 1, Chapter 5 of the Indiana Code provides that the legislative body of a unit **shall** codify, revise, rearrange, or compile the ordinances of the unit into a complete, simplified code excluding formal parts of the ordinances;

WHEREAS, The legislative body of this unit, the Town of Highland, is the Town Council, pursuant to IC 36-1-2-9(5) and IC 36-5-2-2;

WHEREAS, The present general and permanent ordinances of the Town of Highland, formally codified in 2012, are in need of technical and substantive modifications confined to Chapter 15.55 regarding the Flood Hazard Areas, upon the advice and direction of the Indiana Department of Natural Resources (IDNR), therefore desirable to further improve and perfect the Code; and

WHEREAS, The Town Council, is persuaded that it is necessary and desirable to adopt the several technical and substantive modifications not confined to any particular Title, Article or Chapter to further improve and perfect the Code,

Section 1. That Chapter 15.55 of the Highland Municipal Code be amended by repealing Sections 15.55.130, 15.55.140, 15.55.150, 15.55.160, 15.55.170, 15.55.180 and 15.55.190 in their entirety;

Section 2. That the Highland Municipal Code is hereby amended by replacing the repealed sections with successor and replacement sections, which shall be numbered and read as follows:

Article IV. Flood Hazard Area Regulations

15.55.130 Statutory Authorization, Findings of Fact, Purpose, and Objectives.

(A) **Statutory Authorization.** The Indiana Legislature has in IC-36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Highland does hereby adopt the following floodplain management regulations.

(B) **Findings of Fact.**

- (1) The flood hazard areas of the Town of Highland are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

(C) **Statement of Purpose.** It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (6) Make federal flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(D) **Objectives.** The objectives of this ordinance are:

- (1) To protect human life and health.
- (2) To minimize expenditure of public money for costly flood control projects.
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) To minimize prolonged business interruptions.
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

15.55.140 Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

(A) "A zone" means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

- (1) Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.
- (2) Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)
- (3) Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
- (4) Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.
- (5) Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.
- (6) Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

(B) **Accessory structure** (appurtenant structure) means a structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

(C) **Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

- (D) **Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.
- (E) **Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (F) **Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year.
- (G) **Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.
- (H) **Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.
- (I) **Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.
- (J) **Boundary River Floodway** means the floodway of a boundary river.
- (K) **Building** - see "Structure."
- (L) **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.
- (M) **Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.
- (N) **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- (O) **D Zone** means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.
- (P) **Development** means any man-made change to improved or unimproved real estate including but not limited to:
- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
 - (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
 - (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
 - (5) mining, dredging, filling, grading, excavation, or drilling operations;
 - (6) construction and /or reconstruction of bridges or culverts;
 - (7) storage of materials; or
 - (8) any other activity that might change the direction, height, or velocity of flood or surface waters.
- "Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.
- (Q) **Elevated structure** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).
- (R) **Elevation Certificate** is a certified statement that verifies a structure's elevation information.
- (S) **Emergency Program** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.
- (T) **Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading

or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

(U) **Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(V) **FEMA** means the Federal Emergency Management Agency.

(W) **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

(X) **Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

(Y) **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

(Z) **Flood Insurance Study (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

(AA) **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")

(BB) **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")

(CC) **Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

(DD) **Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

(EE) **Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

(FF) **Floodproofing (dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

(GG) **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

(HH) **Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

(II) **Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

(JJ) **Fringe** is those portions of the floodplain lying outside the floodway.

(KK) **Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Town of Highland Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these

problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

(LL) Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

(MM) Historic structures means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(NN) Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

(OO) Letter of Map Change (LOMC) is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

(1) Letter of Map Amendment (LOMA) means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

(2) Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(3) Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

(PP) Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

(QQ) Lowest floor means the lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
 - c) such enclosed space shall be usable solely for the parking of vehicles and building access.

(RR) Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(SS) Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(TT) Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

(UU) Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

(VV) National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

(WW) National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(XX) New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

(YY) New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

(ZZ) Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

(AAa) North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

(BBb) Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

(CCc) One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

(DDd) Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

(EEe) Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

(FFf) Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

(GGg) Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

(HHh) Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 15.55.150, (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

(Iii) Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

(JJj) Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Highland are generally identified as such on the Lake County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 18, 2012 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

(KKk) Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days

of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(LLI) Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

(MMm) Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(NNn) Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

(OOo) Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

(PPp) Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

(QQq) Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(RRr) Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(SSs) X zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

(TTt) Zone means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

(UUu) Zone A (see definition for A zone)

(VVv) Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

15.55.150 General Provisions.

(A) **Lands to Which This Ordinance Applies.** This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town.

(B) **Basis for Establishing Regulatory Flood Data.** This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Highland shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Lake County, Indiana and Incorporated Areas dated January 18, 2012 and the corresponding Flood Insurance Rate Map dated January 18, 2012 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Highland, delineated as an "A Zone" on the Lake County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 18, 2012 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.
- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- (4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(C) Establishment of Floodplain Development Permit. A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

(D) Compliance. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

(E) Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) Discrepancy between Mapped Floodplain and Actual Ground Elevations.

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(G) Interpretation. In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(H) Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of Highland, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

(I) Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Highland. All violations shall be punishable by a fine not exceeding \$250.00.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Town of Highland Town Council shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

- (3) Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

15.55.160 Administration.

(A) **Designation of Administrator.** The Town of Highland Town Council hereby appoints the Building Commissioner to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

(B) **Permit Procedures.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

(1) Application Stage.

- a) A description of the proposed development.
- b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- c) A legal description of the property site.
- d) A site development plan showing existing and proposed development locations and existing and proposed land grades.
- e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 15.55.160 (C) (6) for additional information.)

(2) Finished Construction.

Upon completion of construction, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, flood-proofing certification is required to be submitted by the applicant to the Floodplain Administrator.

(C) **Duties and Responsibilities of the Floodplain Administrator.** The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but are not limited to:

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied.
- (2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 15.55.170 (E) and (G) (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

- (6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (10) Review certified plans and specifications for compliance.
- (11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 15.55.160 (B).
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 15.55.160 (B).

15.55.170 Provisions for Flood Hazard Reduction.

(A) **General Standards.** In all SFHAs and known flood prone areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

(B) **Specific Standards.** In all SFHAs, the following provisions are required:

- (1) In addition to the requirements of Section 15.55.170(A) all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - a) Construction or placement of any structure having a floor area greater than 400 square feet.
 - b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

- c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 - d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
- (2) **Residential Structures.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 15.55.170 (B) (4).
- (3) **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 15.55.170 (B)(4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:
- a) **A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Section 15.55.160 (C)(12).**
 - b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
- (4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.
- Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:
- a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 - c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
- (5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:
- a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
 - b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
 - c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

- d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e) The top of the lowest floor including basements shall be at or above the FPG.
- (6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:
 - (i) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 15.55.170 (B)(4).
 - b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:
 - (i) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (ii) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 15.55.170 (B)(4).
 - c) Recreational vehicles placed on a site shall either:
 - (i) be on site for less than 180 days;
 - (ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - (iii) meet the requirements for “manufactured homes” as stated earlier in this section.
- (7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
- a) Shall not be used for human habitation.
 - b) Shall be constructed of flood resistant materials.
 - c) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - d) Shall be firmly anchored to prevent flotation.
 - e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
 - f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 15.55.170(B)(4).
- (8) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(C) **Standards for Subdivision Proposals.**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.

(D) **Critical Facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(E) **Standards for Identified Floodways.** Located within SFHAs, established in Section 15.55.150(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 15.55.170 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(F) **Standards for Identified Fringe.** If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 15.55.170 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(G) **Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.**

- (1) Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the

one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 15.55.170 of this ordinance have been met.

- (2) Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 15.55.170 of this ordinance have been met.

- (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

- (H) **Standards for Flood Prone Areas.** All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 15.55.170.

15.55.180 Variance Procedures.

- (A) **Designation of Variance and Appeals Board.** The Town of Highland Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance.

- (B) **Duties of Variance and Appeals Board.** The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Lake County Circuit or Superior Court.

- (C) **Variance Procedures.** In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- (1) The danger of life and property due to flooding or erosion damage.
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (3) The importance of the services provided by the proposed facility to the community.
- (4) The necessity of the facility to a waterfront location, where applicable.
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (6) The compatibility of the proposed use with existing and anticipated development,
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

- (D) **Conditions for Variances.**

- (1) Variances shall only be issued when there is:
 - a) A showing of good and sufficient cause.

- b) A determination that failure to grant the variance would result in exceptional hardship.
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Section 15.55.170, (E) or (G) (1) of this ordinance may be granted.
 - (3) Any variance granted in a floodway subject to Section 15.55.170, (E) or (G) (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
 - (4) Variances to the Provisions for Flood Hazard Reduction of Section 15.55.170, (B), may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 - (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
 - (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 15.55.180 (E)).
 - (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section 15.55.180 (E)).

(E) **Variance Notification.** Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- (2) Such construction below the flood protection grade increases risks to life and property.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

(F) **Historic Structure.** Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(G) **Special Conditions.** Upon the consideration of the factors listed in Section 15.55.180, and the purposes of this ordinance, the Town of Highland Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

15.55.190. Severability.

If any section, clause, sentence, or phrase of the chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this chapter.

Section 3. Effective Date. That this amendment to the Highland Municipal Code shall be in full force and effect from and after its passage and adoption, subject to the publication requirements set forth in IC 36-5-2-10(c).

Introduced and Filed on the 14th day of March 2106. Consideration on same day or at same meeting of introduction sustained a vote of 4 in favor and a vote of 0 opposed, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 14th day of March 2016, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

6. **Proposed Ordinance No. 1613:** An Ordinance Designating An Economic Development Target Area Within The Boundary Of An Economic Revitalization Area Established By Resolution 2007-23 Adopted May 14, 2007 That Is Located At 8835 And 8845 Kennedy Avenue To Enable Property Tax Abatement For Retail Uses.

Councilor Vassar introduced and filed Ordinance No. 1613. There was no further action. This would be set for consideration at the March 28, 2016 plenary meeting.

7. **Resolution No. 2016-12:** A Resolution Fixing Monday, March 28, 2016 As The Date For A Public Hearing On An Application For Property Tax Abatement Related To Property Located At 8835 And 8845 Kennedy Avenue.

Councilor Vassar moved the passage and adoption of Resolution No. 2016-12. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN OF HIGHLAND, INDIANA
RESOLUTION NO. 2016-12**

A RESOLUTION FIXING MONDAY, MARCH 28, 2016 AS THE DATE FOR A PUBLIC HEARING ON AN APPLICATION FOR PROPERTY TAX ABATEMENT RELATED TO PROPERTY LOCATED AT 8835 AND 8845 KENNEDY AVENUE

WHEREAS, Indiana Code 6-1.1-12.1 et seq.; amended, (the "Act") allows a partial abatement of property taxes attributable to "Redevelopment" or "Rehabilitation" activities in "Economic Revitalization Areas" as those terms are defined in the Act, and

WHEREAS, Property tax abatement, if approved, is applied as a deduction in the increase in assessed value that results from investment in new construction or rehabilitation of property; and

WHEREAS, On May 14, 2007, the Highland Town Council adopted **Resolution No. 2007-23** designating and confirming an Economic Development Revitalization Area including 8835 and 8845 Kennedy Avenue (**Exhibit A**); and

WHEREAS, An application for property tax abatement for property (the "Project") located at the following legally described area in the Town of Highland, Lake County a/k/a 8835 and 8845 Kennedy Avenue (The "Real Estate") has been received from Vyto's Pharmacy, a copy of which is attached and incorporated herein by reference (**Exhibit B**):

8835 Kennedy Avenue

Parcel # 45-07-21-453-001.000-026

Legal Description: All that part of Block 16, in the Town of Highland, as per plat thereof, recorded in Plat Book 1, page 86, in the Office of the Recorder of Lake County, Indiana, lying southwesterly of the Southwesterly right of way line and depot ground of the Chesapeake and Ohio Railroad Company, and lying North of the North line of Clough Street, and East of the East line of Kennedy Avenue all in the Town of Highland, Lake County, Indiana.

8845 Kennedy Avenue

Parcel # 45-07-21-453-002.000-026

Legal Description: Part of the Southwest ¼ of the Southeast ¼ of Section 21, Township 36 North, Range Original Town of Highland; thence Easterly along the North line of said Block 17 to the intersection of said North line with the Southwesterly line of the Right of way of the Chicago and Erie Railroad Station Grounds; thence Northwesterly along said Right of way to its intersection with the South line of Block 16 of the Original Town of Highland; thence West 241.42 feet along the South line of said Block 16 to the Southwest corner of said Block 16; thence South 60 feet to the Place of Beginning, in the Town of Highland, Indiana; and

WHEREAS, Said application proposes a \$1,300,000.00 newly constructed facility, for a net estimated value upon completion of \$1,410,000; that would bring four (4) additional jobs (4 FTE) and retain six (6) jobs (6FTE) in Highland with an estimated \$240,000.00 increase in annual payroll; and that may not proceed but for approval of tax abatement by the Town Council; and

WHEREAS, \$229,100.00 is the most recent assessed value of the property that is the subject of this resolution, and

WHEREAS, \$1,040,000.00 is the owner's estimated assessed value of the property upon completion of the Project; and

WHEREAS, The Real Estate is located within an Economic Revitalization Area within the Town of Highland; and

WHEREAS, At a meeting held January 27, 2016, the Redevelopment Commission recommended tax abatement for the proposed development dependent upon the consistency of the project's plans with the design standards for Redevelopment Area I and appropriate Municipal Code standards; and

WHEREAS, At a meeting held March 1, 2016, the Economic Development Commission recommended tax abatement for the proposed development and the establishment of an Economic Development Target Area; and

WHEREAS, The Act empowers the Town Council to approve a deduction as percentage of the increase in assessed value that results from investments in new construction or rehabilitation of property by following a procedure hearing and confirmation of a Preliminary Resolution, provision of a public notice at least ten days before the date of a public hearing, conducting a public hearing and confirmation of a Final Resolution,

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Highland as follows:

Section 1. The Highland Town Council will consider an application for property tax abatement for the construction of a new building and improvements on the Real Estate which is the subject of this resolution after a public hearing and upon adoption of a Final Resolution confirming this Preliminary Resolution;

Section 2. The Final Resolution shall limit the amount of deduction applicable for redevelopment of said Real Estate for a period of time not to exceed **five** calendar years for net improvement costs of \$1,410,000.00, with a net estimated assessed value (by owner) of \$1,040,000.00. The five year deduction will include 100% of improvements;

Section 3. Pursuant to enabling authority provided at IC 6-1.1-12.1-2(h)(6), as a condition of approval for the deduction in assessed value, the applicant shall contribute \$18,595.00 to the Town of Highland before permits are issued.

Section 4. The Applicant agrees to notify and appear before the Town Council of Highland if at any time during the five years they intend to appeal their assessed value thereby affecting the amount of deduction.

Section 5. The Town Council hereby fixes **7:00 PM, Monday, March 28, 2016** in the plenary Council Chambers, Highland Municipal Building, 3333 Ridge Road, Highland, Indiana, as the time and place for a public hearing for receiving testimony, remonstrances and objections from persons interested in or affected by the proposed property tax abatement and directs the publication of notice of said hearing in accordance with the requirements of applicable law. After the public hearing, the Town Council will consider a Final Resolution that would grant tax abatement consistent with conditions described in this Preliminary Resolution.

DULY RESOLVED and ADOPTED this 14th Day of March, 2016 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Bernie Zemen, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

EXHIBIT A

Resolution No 2007-23, A Resolution Designating and Confirming an Economic Development Revitalization Area for Redevelopment Area I for the Downtown Area which includes the Property Located at 8835 and 8845 Kennedy Avenue.

TOWN OF HIGHLAND, INDIANA
RESOLUTION NO. 2007-23

A RESOLUTION DESIGNATING AN ECONOMIC REVITALIZATION
AREA COTERMINOUS WITH THE BOUNDARY OF THE
REDEVELOPMENT AREA

WHEREAS, Indiana Code 6-1.1-12.1 et seq.; amended, (the "Act") allows a partial abatement of property taxes attributable to "Redevelopment" or "Rehabilitation" activities and installation of new machinery and equipment in "Economic Revitalization Areas" as those terms are defined in the Act, and

WHEREAS, The Act provides that such Economic Revitalization Areas are areas within the Town which have:

"...become undesirable for, or impossible of, normal development, and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings or other factors which have impaired values or prevent a normal development of property or use of property", and

WHEREAS, The Act empowers the Town Council to designate Economic Revitalization Areas within the Town by following a procedure hearing, provision of a public notice at least ten days before the date of a public hearing, conducting a public hearing and confirmation of the Preliminary Resolution and a Final Resolution, and

WHEREAS, The Town Council adopted Resolution 2007-10 fixing 7:00 PM, Monday, April 23, 2007 in the Council Chambers, Highland Town Hall, 3333 Ridge Road, Highland, Indiana, as the time and place for a public hearing for receiving remonstrances and objections from persons interested in or affected by the designation of a Economic Revitalization Area and directed the publication of notice of said hearing in accordance with the requirements of applicable law and notice was published ten days prior to the public hearing; and

WHEREAS, Notice of the public hearing was given to taxing units with a report of the town manager consistent with statutory requirements of IC 6-1.1-12.1-3 (a) to provide a "Statement of Benefits" expected to be derived from the proposed Economic Revitalization Area ten days prior to the public hearing; and

WHEREAS, The notice published in the NWI Times erroneously identified a date of April 26, 2007 instead of April 23, 2007 as the date for the public hearing; and,

WHEREAS, On April 23, 2009, the Town Council directed re-advertising of notice fixing 7:00 PM, Monday, May 14, 2007 in the Council Chambers,

Highland Town Hall, 3333 Ridge Road, Highland, Indiana, as the time and place for a public hearing for receiving testimony, remonstrances and objections from persons interested in or affected by the designation of a Economic Revitalization Area and directed the publication of notice of said hearing in accordance with the requirements of applicable law and the notice was published again ten days prior to the May 14, 2007 public hearing; and

WHEREAS, Having conducted the public hearing on May 14, 2007, in which the Town Council received evidence concerning the Economic Revitalization Area, including all remonstrances and objections from interested persons, the Town Council now desires to take appropriate action regarding the designation of an Economic Development Area (ERA), based upon that evidence, the Statement of Benefits and the Council's independent investigation;

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the Town Council of the Town of Highland as follows:

Section 1. That the Town Council hereby finds and determines that the Town of Highland has heretofore through its Redevelopment Commission established a Redevelopment Area pursuant to IC 36-7-14 et seq.

Section 2. That the Town Council hereby further finds and determines that designation of the Redevelopment Area as an Economic Revitalization Area is an implementation strategy of the Comprehensive (Redevelopment) Plan for the Redevelopment Area, consistent with its guidelines, endeavoring to create a positive image for the town through well designed, high quality development; to increase jobs and generate tax revenues through new development; to encourage development of business opportunities for all; to encourage private investment along the corridor; to enhance district neighborhoods through increased well planned economic opportunities; and to aid in the elimination of incomplete or inappropriate land uses.

Section 3. That the Town Council hereby still further finds and determines as follows:

(a) That real estate within the Highland Redevelopment Area continues to be undesirable for, or impossible for, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values of or prevent a normal development of property or use of property, and/or such real estate includes a facility or group of facilities that are technologically, economically, or energy obsolete and which such obsolescence may lead to a decline in employment and tax revenues; and

(b) That the goal for a net increase of 300 full-time equivalent (FTE) jobs as set forth in the *Statement of Estimated Benefits* associated with the ERA

designation can reasonably be expected to result within the *Economic Revitalization Area* with average salaries of \$30,000 per year from private investment that would not occur but for a property tax abatement incentive; and

(c) That the goal for a \$10 million increase in the assessed value of real estate can reasonably be expected to result within the *Economic Revitalization Area* from private investment that would not occur but for a property tax abatement incentive; and

(d) That the goal for a \$1 million increase in the assessed value of machinery and equipment can reasonably be expected to result within the *Economic Revitalization Area* from private investment that would not occur but for a property tax abatement incentive; and

(e) That the totality of the benefits expected increased private investment within the *Economic Revitalization Area* is sufficient to justify property tax deductions; and

(f) That the Highland Redevelopment Commission desires to have real estate within the Redevelopment Area designated as an *Economic Revitalization Area* for the purpose of offering property tax savings as an incentive to facilitate implementation of its Comprehensive Plan for the Redevelopment Area.

(g) That in making the foregoing findings and determinations regarding designation of the real estate as an *Economic Revitalization Area*, the Town Council has considered the effective utilization of vacant urban land, the stabilization and conservation of neighborhoods, the rehabilitation and replacement of obsolete and deteriorated structures, improvements to the physical appearance of the Town, effective utilization of energy, avoidance of environmental harm and increases in employment and assessed value of property located within the Town.

(h) That the foregoing findings of fact are true, all information required to be submitted has been submitted in proper form and all requirements for approval of property tax abatement within the Highland Redevelopment Area have been met.

Section 4. That Resolution 2007-10 adopted by the Town Council on March 26, 2007 is hereby confirmed and the real estate within the Highland Redevelopment Area as described at Exhibit A is hereby declared, designated and found to be an *Economic Revitalization Area*.

Section 5. That a property owner or owners within the *Economic Revitalization Area* who seek tax abatement must submit an application on a form approved by the Redevelopment Commission and a "Statement of Benefits" (Form SB-1) prescribed by the Indiana Department of Local Government Finance before installing new equipment or before the

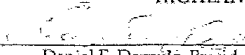
redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. The application will establish standards to be used for evaluating applications for tax deduction that have a reasonable relationship to development objectives and design standards of the Redevelopment Commission.

Section 6. That along with each application which may be filed, a fee shall be paid, hereby fixed in the amount of \$250.00 to defray actual processing and administrative costs.

Section 7. That as part of the consideration of all abatement applications, the Town Council will conduct a public hearing before making its decision whether or not to approve a deduction. The Town Council may approve a deduction period up to ten (10) years.

Section 8. That the Clerk-Treasurer is authorized and directed to file a copy of this resolution, including a description of the real estate as contained in Exhibit A, with the Lake County Auditor and the Indiana Department of Local Government Finance.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA


Daniel E. Dernulc, President (IC 36-5-2-10)

Attest:


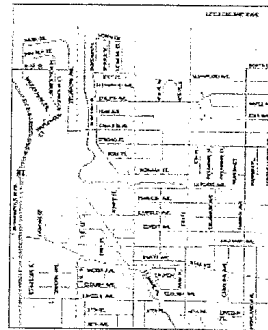

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)



Exhibit A

Legal Description of Highland Redevelopment Area ERA

COMMENCING: at the intersection of the alley West of Lincoln Avenue and Kennedy Avenue;
THENCE: North to Ridge Road;
THENCE: West on Ridge Road to Osborn Street;
THENCE: North on Osborn Street to the NIPSCO Right-of-Way, extending along the Southeast line of the NIPSCO Right-of-Way to a point at which Garfield Avenue would intersect with the Norfolk Southern Railroad;
THENCE: North on along the West side of the Norfolk Southern Railroad to the NIPSCO Right-of-Way and Northwest along the NIPSCO Right-of-Way to LaPorte Avenue, if extended;
THENCE: East along LaPorte Avenue, if extended until the alley on the West side of Kennedy Avenue;
THENCE: North on the West alley of Kennedy Avenue to the Little Calumet River;
THENCE: East along the Little Calumet River for 505 feet;
THENCE: South 983 feet;
THENCE: West 40 feet;
THENCE: South 714 feet along the East side of the alley to the South Right-of-Way of Duluth Avenue;
THENCE: West to the East alley of Kennedy Avenue;
THENCE: South along the East alley of Kennedy Avenue to the NIPSCO Right-of-Way;
THENCE: West to the center of Kennedy Avenue;
THENCE: South along the center of Kennedy Avenue to LaPorte Avenue;
THENCE: East to the east alley of LaPorte Avenue;
THENCE: South to the alley North of Highway Avenue;
THENCE: East along the alley North of Highway Avenue to Fifth Street;
THENCE: South on Fifth Street to Lincoln Avenue;
THENCE: West on Lincoln Street to the point of beginning, the intersection of the alley West of Lincoln Avenue and Kennedy Avenue.



8. Authorizing the proper officer to publish legal notice of a public hearing to consider additional appropriations in the amount of \$51,300 in the Corporation Capital Fund.

Councilor Herak moved to authorize the proper officer to advertise for a public hearing to consider additional appropriations in the amount of \$51,300 in the Corporation Capital Fund. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The hearing was authorized.

NEW BUSINESS

Executive Session Ratified and Authorized. With leave from the Town Council, Councilor Herak moved to authorize and ratify the public notice of the Executive Session for the Town Council, on Monday, March 14, 2016 at 8:15 p.m. The purpose of the Executive Session would be for discussion of the job performance of individual employees, which is permitted pursuant to IC 5-14-1.5-6.1(b)(9). Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The Executive Session for the purpose indicated was authorized and ratified.

Comments or Remarks from the Town Council:

(For the Good of the Order)

- **Councilor Mark Herak:** *Budget and Finance Chair • Liaison to the Board of Sanitary Commissioners • Liaison to the Community Events Commission • Liaison to the Board of Waterworks Directors.*

Councilor Herak congratulated the Mr. Ripley of HR Unlimited for his new grandchild.

Councilor Herak extemporized regarding his experiences near his workplace commute with public murals, posing the suggestion that public murals could be commissioned on some of the undeveloped properties, noting the site of the former Darnell's Auto Repair, to be performed perhaps by art students. Councilor Herak also noted favorably the recent addition of the Sips Coffee Shop in the downtown.

A colloquy between and among Councilor Herak, the Redevelopment Director and the Building Commissioner ensued regarding the public murals displayed in the Town of Griffith and whether the current sign regulations of the Zoning Code prohibited such activities.

Councilor Herak acknowledged the Assistant Public Works Director, who reported on the status of projects by the Board of Sanitary Commissioners and the Red Zone work. He also noted that the department would be seeking bids for the purchase of four heavy dump trucks. He also advised that replacement fencing for the Public Works Facility is a project slated for late Spring.

- **Councilor Dan Vassar:** *• Liaison to the Park and Recreation Board.*

Councilor Vassar acknowledged the Parks and Recreation Superintendent, who reported that the Community Band Concert would be hosted on Friday, March 18 at Monzek Auditorium. The Superintendent also noted the passing of a long-time yoga instructor.

Councilor Vassar joined the Parks and Recreation Superintendent in expressing condolences to Sean Kingston, a trainer at the Fitness Center on the recent passing of his wife.

- **Councilor Steve Wagner:** • *Advisory Board of Zoning Appeals Liaison.*

Councilor Wagner was absent owing to work commitment.

- **Councilor Konnie Kuiper:** • *Town Board of Metropolitan Police Commissioners, Liaison.* • *Fire Department, Liaison* • *Chamber of Commerce Co-Liaison.*

Councilor Kuiper acknowledged the Fire Chief, who reported that the recently purchased Fire Rescue was finalizing its preparation by the vendor and would soon be delivered.

- **Council President Bernie Zemen:** *Municipal Executive Chamber of Commerce Co-Liaison* • *IT Liaison* • *Redevelopment Commission Liaison.*

The Town Council President acknowledged the Building Commissioner, who offered a cursory report on Plan Commission petitions.

The Town Council President acknowledged the Redevelopment Director who thanked the Town Council for its appointment to the Land Bank Board.

The Town Council President acknowledged the Fire Chief to offer a report on the status of the Public Safety Answering Point (PSAP) consolidation at the county level. The Fire Chief reported that the PSAP consolidation is moving forward and opined that it was 80% completed.

The Fire Chief also reported that all Fire Chiefs in the county are now working as a task force to develop Storm event responses.

The Town Council President acknowledged the IT Contract Consultant, who noted that the last operational AT&T line would soon deactivated.

The Town Council President acknowledged the Assistant Public Works Director who noted that during work related to installation of the new watermain, a natural gas line was breached. He further reported that generally the contractor's boring device has been working well for the replacement work.

It was noted that the Public Works Director, the Parks and Recreation Superintendent, and the Fire Chief met with representatives from NIPSCO regarding its plans to replace some natural gas lines that will have an impact on LaPorte Street and the bike path while the construction is in progress.

Comments from Visitors or Residents:

1. Rick Volbrecht, 9221 Parkway Drive, Highland, reported on a neighbor's desire to repair or replace a fence that is on their property line that he described as "dilapidated", and his understanding of the difficulty this neighbor was experiencing in receiving municipal; permission to tear down the fence and make the repairs.

It was noted that these neighbors were advised that they would need to obtain permission from the Advisory Board of Zoning Appeals.

With leave from the Town Council, the Building Commissioner explained that the current zoning code dictates the process.

The Town Council President represented that he would look into the matter.

Payment of Accounts Payable Vouchers. There being no further comments from the public, Councilor Vassar moved to allow the vendors accounts payable vouchers as filed on the pending accounts payable docket, covering the period February 23, 2016 through March 14, 2016 and the payroll dockets for January 22 and February 19, 2016. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The accounts payable vouchers for the vendor and payroll dockets were allowed, payments allowed in advance were ratified, and for all remaining invoices, the Clerk-Treasurer was authorized to make payment.

Vendors Accounts Payable Docket:

General Fund, \$292,160.09; Motor Vehicle Highway and Street (MVH) Fund, \$69,920.90; Law Enforcement Continuing Education, Training, and Supply Fund, \$4,285.55; Capital Projects Retainage Agency Fund, \$12,258.10; Flexible Spending Account Agency Fund, \$1,395.34; Insurance Premium Fund, \$146,991.15; Gasoline Agency Fund, \$10,310.80; Information and Communications Technology Fund, \$7,777.58; Municipal Cumulative Capital Development Fund, \$2,414.90; Traffic Violations and Law Enforcement Agency Fund, \$12,879.00; Total: \$560,393.41.

Payroll Docket for payday of January 22, 2016:

Council, Boards and Commissions, \$8,159.00; Office of Clerk-Treasurer, \$15,639.69; Building and Inspection Department, \$8,041.71; Metropolitan Police Department, \$107,450.39; Fire Department, \$27,419.69; Public Works Department (Agency), \$69,613.58 and 1925 Police Pension Plan Pension Fund, \$62,306.76; Total Payroll: \$298,630.82.

Payroll Docket for payday of February 19, 2016:

Council, Boards and Commissions, \$8,239.00; Office of Clerk-Treasurer, \$15,553.75; Building and Inspection Department, \$7,315.95; Metropolitan Police Department, \$106,337.90; Fire Department, \$3,016.88; Public Works Department (Agency), \$63,476.79 and 1925 Police Pension Plan Pension Fund, \$62,170.24; Total Payroll: \$266,110.51.

Adjournment of Plenary Meeting. Councilor Kuiper moved that the plenary meeting be adjourned. Councilor Vassar seconded. Upon a vote *viva voce*, the motion passed. The regular plenary meeting of the Town Council of Monday, March 14, 2016 was adjourned at 7:56 O'clock p.m. There was no study session following this meeting. There was an Executive Session that was scheduled to commence at 8:15 p.m.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO
Clerk-Treasurer